



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No.4993-99
18 January 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, changes in the reason for discharge and the reenlistment code.

2. The Board, consisting of Mr. Pfeiffer, Ms. Gilbert, and Ms. Madison and reviewed Petitioner's allegations of error and injustice on 5 January 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 4 January 1988 for four years at age 21. The record reflects that she completed

hospital corpsman class "A" school and received her corpsman designation.

d. Petitioner served without incident until 22 July 1988 when the family practice clinic referred her for a psychiatric evaluation. It was noted that she was more than nine weeks pregnant, had a history of rape, life-long nervousness, and periods of depression.

e. On 12 August 1988, during the psychiatric evaluation, Petitioner complained of dysphoria, difficulty in sleeping, a sense of aimlessness, anxiety, tension headaches, malaise, problems concentrating, loneliness, and a need to return to her home as soon as possible. A recent sexual assault by a fellow corpsman resulted in her re-experiencing the trauma of two prior occasions in which she was raped. Past history reported to the examining psychiatrist by Petitioner noted that she was the youngest of 10 children, her father was an alcoholic and was killed by the Mafia, she was raped by an uncle at age 4 and a cousin at age 14, had a three year old daughter by an old boyfriend, had been married and divorced, and was currently engaged. Petitioner was diagnosed with a personality disorder, not otherwise specified, with dependent and borderline features. Administrative separation was recommended.

f. The medical record reflects that Petitioner expressed suicidal ideation in anger during a telephone conversation with her ex-fiance. On 17 August 1988, an examining psychologist noted Petitioner's claim that her statement was made in anger and she had no genuine suicidal thoughts. The psychologist opined that in his judgment if she was not expeditiously separated, she would likely act out and require psychiatric hospitalization. He amended the 12 August 1988 consult to state that Petitioner's personality disorder was so severe as to render her incapable of further service, and she should be separated immediately. She was deemed potentially self-destructive.

g. Petitioner was then notified that she was being considered for administrative separation by reason of convenience of the government due to the diagnosed personality disorder. She was advised of her procedural rights and that the least favorable characterization she could receive was under honorable conditions. She did not object to the discharge. On

15 September 1988, Petitioner received a general discharge by Disorder," and was assigned an RE-4 reenlistment code.

h. Regulations provide that individuals who are separated for convenience of the government will received the type of discharge warranted by the service record. Character of service is based, in part, on military behavior and overall trait averages which are computed from marks assigned during periodic evaluations. Petitioner's military behavior and overall trait averages were both 3.6. The minimum average marks required for a fully honorable characterization at the time of her discharge were 3.0 in military behavior and 2.8 in overall traits.

i. Regulations also provide that individual will not be separated on the basis of pregnancy or childbirth unless it is determined to be in the best interests of the individual or if the member demonstrates overriding and compelling factors of personal need which warrant separation. However, such a determination is made on a case-by-case basis. An individual may request separation on the basis of pregnancy after receiving a certification from a physician.

j. Petitioner claims that she requested discharge for pregnancy and was told at time she signed her discharge papers that she would have no problem reenlisting. She expresses a desire to enlist in the Army. She provides a psychiatric evaluation conducted subsequent to her discharge which finds no evidence that would suggest that she suffers from a personality disorder.

k. An RE-3G reenlistment code is assigned to individuals who are separated by reason of personality order. An RE-4 reenlistment code is assigned to individuals who are ineligible for reenlistment without prior approval of the Commander, Navy Military Command.

l. At the enclosure, an advisory opinion from the Department of Psychiatry, Naval Medical Center, Portsmouth states that dysphoria, sleep difficulty, a sense of aimlessness, anxiety, tension headaches, malaise, loneliness, and a need to go home are suggestive of a personality disorder but are also consistent with other psychiatric diagnoses, such as an adjustment disorder with depressed mood, major depressive disorder, and post traumatic stress disorder. The opinion stated that the examining psychologist failed to provide

sufficient details to substantiate an enduring pattern of inflexible and pervasive traits and behavior that resulted in significant distress or impairment in social, occupational, or other important areas of functioning. Accordingly, while the diagnosis of personality disorder is suggested, it cannot be fully supported from the available documentation in the record, and alternative diagnoses cannot be excluded. However, it was considered significant that on the two occasions Petitioner was examined by the Navy psychologist, he was consistent in his diagnosis and recommendation even though his medical record entries were insufficient to support the diagnosis. The advisory opinion also noted there was no evidence that Petitioner requested separation by reason of pregnancy. The advisory opinion recommends that prior to being allowed to reenlist she be re-examined by a military mental health professional to clarify unclear portions of her medical history and to document any current psychiatric diagnoses.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board concurs with the advisory opinion that even though a personality disorder is suggested, available documentation in the record is insufficient to fully support such a diagnosis in Petitioner's case. Since the Board has no way of evaluating Petitioner, it believes that any deficiency in the record should be resolved in her favor. Therefore the Board concludes that it would be appropriate and just to change the reason for discharge to the less stigmatizing reason of "best interest of service." The Board finds that it would be inappropriate to change the reason for discharge to pregnancy since there is no evidence that she was processed for or requested discharge for this reason.

The Board also notes that Petitioner's military behavior and overall traits averages were sufficient to warrant a fully honorable discharge. Therefore, the Board concludes it would be appropriate to recharacterize her service to fully honorable.

Although, the Board gives Petitioner the benefit of the doubt in this case since the documentation of record does not sufficiently support a personality disorder diagnosis, the Board believes that her pregnancy and recent sexual assault were contributing factors which led to the diagnosis. As a result,

the Board believes she does not deserve the restrictive RE-4 reenlistment code and it should be changed to one which may be waived to allow reenlistment. Although an RE-3G reenlistment code is not specifically authorized for a separation in the best interests of the service, the Board believes that it is appropriate in this case since it would alert recruiting officials that she should be re-examined before any enlistment is authorized. Accordingly, the Board concludes that the reenlistment code should be changed to RE-3G as an exception to policy.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 15 September 1988 she was issued an honorable discharge by reason of "Secretary Plenary Authority" with an RE-3G reenlistment code, vice the general discharge by reason of convenience of the government and RE-4 reenlistment code actually issued on that date. This should include the issuance of a new DD Form 214.

b. That any material or entries inconsistent with or relating to the board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.

e. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 6 August 1999.

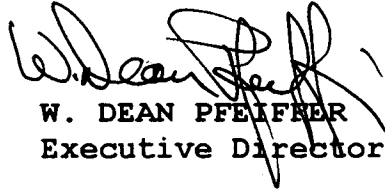
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director